IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.
Income Tax Application No.4 of 2001
with
Income Tax Application No.5 of 2001

The Commissioner of Income Tax .. Applicant
v/s.
M/s.Balsara Hygiene products Ltd. ..Respondents

Mrs.P.P.Bhosale for applicant.
Mr.Ranjit Shetty i/by PDS Legal for respondents.

CORAM : H.L. GOKHALE &
V.R. KINGAONKAR, JJ.

DATED : 1st August 2006

P.C. :

1. Heard the learned Counsel for the parties.

2. The question of law which is sought to be raised in both the Applications is whether on the facts and in the circumstances of the case and in law, the Tribunal was justified in deleting the addition made on account of unutilised MODVAT credit. The amount added has been deleted by the Tribunal by holding that the MODVAT credit in the particular case would not form part of the income liable to be taxed. This view has been accepted by the Apex Court in **Commissioner of Income Tax vs. Indo Nippon Chemicals Co.Ltd. reported in ITR 261 page 275**. This being the position, no need to entertain both the Applications. Applications are dismissed.

(H.L. GOKHALE, J.)

(V.R. KINGAONKAR, J.)